

REMARKS/ARGUMENTS

Status of the Claims:

Claims 1-5, 7-11, 13, 20-22, and 24-26 are pending in the current application. Claims 6, 12, and 27-34 have been cancelled without prejudice to or disclaimer of the subject matter contained therein. Claims 27-34 are cancelled due to the restriction requirement. Claims 1(b) and 8 have been amended to correct errors in antecedent basis. Clause (c) of claim 3 and clause (b) of claim 9 have also been amended as described elsewhere herein. Support for the amendments to these claims may be found in original claims 6 and 12. No new matter has been added by way of amendment.

The Examiner is respectfully requested to withdraw the rejections and allow claims 1-5, 7-11, 13, 20-22, and 24-26. In any event, the Examiner is respectfully requested to enter the above amendments for purposes of further prosecution. The amendments were made pursuant to suggestions made by the Examiner.

The Rejections Under 35 U.S.C. § 112, Second Paragraph Should be Withdrawn

The Examiner has rejected claims 1, 3, 8, and 9 under 35 U.S.C. § 112, second paragraph on the grounds that they are indefinite. The rejection is respectfully traversed as applied to the amended claims for the reasons described below.

Claims 1(b) and 8 were rejected on the grounds that they contain errors in antecedent basis. These claims have been amended to correct these errors, thereby obviating the rejection.

Claims 3 and 9 were rejected on the grounds that clause (c) of claim 3 and clause (b) of claim 9 are indefinite for reciting a "plant-preferred translation initiation context nucleotide sequence." The Applicants believe that the meaning of this phrase, when read in light of the supporting specification, would be clear to one of skill in the art. Nevertheless, in order to expedite prosecution, these claims have been amended as suggested by the Examiner to incorporate the limitations of claims 6 and 12.

In view of the above amendments, it is submitted that all grounds for rejection under 35 U.S.C. § 112, second paragraph, have been obviated. Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 2, 2004</p> <p><i>Nora C. Martinez</i> _____ Nora C. Martinez</p>
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